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toward one another in the piercing position to form a pointed tip which permits the piercing of the body wall without an additional trocar mandrel.

REMARKS

Claims 9-22 have been amended to eliminate informalities serving as a basis for the rejection under 35 U.S.C. 112, second paragraph, and, as now presented, particularly point out and distinctly claim the inventive subject matter.

Claims 9-22 have been rejected as anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 5,279,575 to Sugarbaker. Applicant respectfully disagree with the Examiner that the '575 patent anticipates the claims 1, 3 and 5 as amended. Finally, Applicant respectfully request withdrawal of this rejection as applied to claims 16-22.

The present invention discloses a trocar sleeve having pivotable parts (11,12) that are mounted on an elongated part (4) and swing between a close and open position. The trocar sleeve further comprises the spring mechanism (6) that urges the pivotable parts away from one another in the open position upon displacement of a surgical instrument along the trocar sleeve.

In contrast, the '575 patent does not disclose a spring mechanism. The flukes (22) are displaced to their open position upon engaging with a slidable body and are not spring-biased toward the open position, as required by the amended claim 9. Particularly, this patent discloses an inner sleeve (26) which, while traversing an outer sleeve 20, spreads the flukes (22) apart by engaging the cam surfaces (44). The flukes (22) resume their initial position upon pressing against the inner body wall and remain in this position without applying any external force.

Claim 16 has been slightly amended to recite the pivotable parts (11, 12) tilted toward the longitudinal axis to form a tip, which permits cutting of the body wall without using any additional cutting instruments. This structure is readily supported by the text of the specification (page 3, lines 21-25) and Figure 1 showing the tip in solid lines.

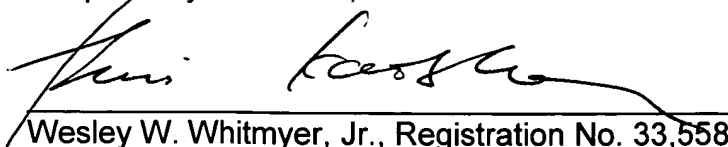
As mentioned above, the '575 patent discloses a pair of flukes (22) forming a blunt end that is not designed to be a cutting tool, as required by the claim 16.

Therefore, the rejection under 35 U.S.C. 102(b) should be withdrawn.

New claim 23 recites all critical features of claim 1 and is, therefore, patentably distinguishable over the cited prior art. New claim 24 recites the tip formed by end portions of the pivotable parts and adapted to pierce the body wall without additional instruments.

Accordingly, it is respectfully submitted that all of the remaining claims are in a condition of allowance and an Early notice to that effect is earnestly solicited.

Respectfully submitted,



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